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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

MODE MEDIA CORPORATION,  
f/k/a GLAM MEDIA, a Delaware  
corporation;

Plaintiff,

v.

JOHN DOE 1, as registrant of the  
GLAMSCOOP.ORG domain name;  
and JOHN DOES 2-10;

Defendants.

Case No.: 3:16-cv-244

**COMPLAINT FOR:**

**(1) TRADEMARK INFRINGEMENT  
AND COUNTERFEITING**  
[15 U.S.C. §§ 1114, *et seq.*];

**(2) CYBERPIRACY**  
[15 U.S.C. §§ 1125(d)];

**(3) COPYRIGHT INFRINGEMENT**  
[17 U.S.C. §§ 501, *et seq.*];

**(4) FALSE DESIGNATION OF  
ORIGIN AND FALSE  
ADVERTISING**  
[15 U.S.C. § 1125(a)];

**(5) FALSE ADVERTISING**  
[Cal. Bus. & Prof. Code §§ 17500, *et  
seq.*];

**(6) INTENTIONAL INTERFERENCE  
WITH PROSPECTIVE  
ECONOMIC ADVANTAGE;**

**(7) UNFAIR COMPETITION**  
[Cal. Bus. & Prof. Code §§ 17200, *et  
seq.*];

**- AND -**

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Plaintiff MODE MEDIA CORPORATION (“Mode Media”) for its complaint against each of the defendants hereby states as follows:

**NATURE OF THE CASE**

1. This is a case where certain unknown John Does, who have gone to great lengths to hide their true identities, are running a counterfeit infringing “mirror” site that mimics Mode Media’s valuable Mode.com website. Mode Media owns a federal trademark registration for the term GLAM and, for many years, operated its business as GLAM.COM. Mode Media continues to use the GLAM mark as a key brand within its portfolio of digital media websites (for example, at “www.mode.com/glam”). The infringers recently registered “www.GlamScoop.org” and are currently using that domain name, which itself infringes on Mode Media’s GLAM mark, as the web address for the infringing mirror site. As one might expect for a mirror site, it attempts to trade off of Mode Media’s goodwill and infringes on a variety of intellectual property rights owned by Mode Media, such as the copyrighted pictorial and graphic works that appear on the Mode.com website, as well as other registered trademarks owned by Mode Media. Mode Media has recently sent multiple takedown demands to the companies hosting the www.GlamScoop.org website. As soon as the infringing mirror site is taken down by one host, the infringers simply hop to another Virtual Private Server hosting company and put it back up again. Through this action, Mode Media seeks to temporarily and then permanently enjoin further use of the infringing GlamScoop.org domain name by the John Does, and recover damages from them, after they are identified in discovery.

**PARTIES**

2. Plaintiff MODE MEDIA CORPORATION is a Delaware corporation that that has its principal place of business in and is a citizen of Brisbane, California. Mode Media was formerly known as GLAM MEDIA.

1           3. Defendant John Doe 1 is the registrant of the domain name  
2 “www.GlamScoop.org” (the “Infringing Domain”). John Doe 1’s identity and  
3 citizenship are currently unknown, because the Infringing Domain was registered  
4 using a privacy protection proxy service. Certain true contact information that John  
5 Doe 1 was required to provide and is required to maintain and keep current as part of  
6 registering the Infringing Domain name can be obtained via subpoena to the domain  
7 name registrar and/or privacy proxy service provider. The true identity of John Doe  
8 1 can and will be ascertained through discovery.

9           4. Defendants John Does 2-10 are other individuals or entities who, on  
10 information and belief, are acting in concert with John Doe 1 in connection with the  
11 creation, hosting, and continual re-posting of the infringing mirror website (the  
12 “Infringing Website”) located at the Infringing Domain. The true identities and  
13 citizenship of John Does 2-10 are also unknown, but can and will be ascertained  
14 through discovery. (Together, John Doe 1 and John Does 2-10 are the “John  
15 Does.”)

### 16                                   **JURISDICTION AND VENUE**

17           5. This Court has original federal question subject matter jurisdiction  
18 pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338 (patents,  
19 copyrights, trademarks) over the first four causes of action, because they all arise  
20 under federal intellectual property laws.

21           6. This Court has supplemental subject matter jurisdiction pursuant to  
22 28 U.S.C. § 1367 over the fifth and sixth causes of action for false advertising and  
23 intentional interference, respectively, because they are so related to the federal  
24 claims as to form part of the same case or controversy under Article III of the United  
25 States Constitution.

26           7. This Court has original federal question subject matter jurisdiction over  
27 the eighth cause of action for unfair competition pursuant to 28 U.S.C. § 1338(b),  
28 since it is a claim for unfair competition that is joined with substantial and related

1 claims under the copyright and trademark laws.

2 8. This Court has personal jurisdiction over John Doe 1 because, by  
3 registering the Infringing Domain name and then creating and repeatedly re-posting  
4 the Infringing Website in a deliberate attempt to trade off the goodwill associated  
5 with Mode Media and to copy copyrighted content owned by Mode Media, John  
6 Doe 1 engaged in wrongful and intentional infringing conduct. This conduct was  
7 targeted and “expressly aimed” at Mode Media. As evidenced by the terms of  
8 copyright policy on the Mode.com website (which John Doe 1 also copied, and  
9 which gives a Brisbane, California address for Mode Media), John Doe 1 knew or  
10 should have known that Mode Media is located in the State of California.  
11 Furthermore, at least one of the Internet hosting companies that John Doe 1 utilized  
12 to host the Infringing Website was located in Fremont, California. This California-  
13 based hosting company provided or leased an IP address it owned to John Doe 1,  
14 and this IP address was then used by John Doe 1 to host the Infringing Website. On  
15 information and belief, John Doe 1 has also utilized server space and other related  
16 Internet resources physically located in the State of California. Thus, John Doe 1,  
17 by utilizing a California-based hosting company to provide an IP address for the  
18 Infringing Website, as well as related Internet hosting services and resources  
19 physically located in California, has purposefully availed himself of the benefits of  
20 this forum. Accordingly, this Court has at least specific personal jurisdiction over  
21 John Doe 1. In the alternative, if it turns out that John Doe 1 is a foreign national  
22 with no domicile in the United States, then this is also an “exceptional case” where  
23 John Doe 1 is “subject to the jurisdiction of the courts of the United States but not of  
24 any particular State,” because of his or her utilization of various different U.S.  
25 Internet hosting companies and the U.S. domestic Internet infrastructure.

26 9. On information and belief, the Court also has personal jurisdiction over  
27 John Does 2-10, because they knew and intended and assisted John Doe 1 in  
28 expressly aiming infringing conduct at Mode Media, and in directing their activities

1 towards California with respect to utilizing at least one California-based hosting  
 2 companies to obtain and IP address and related web hosting resources. In the  
 3 alternative, if it turns out that John Does 2-10 are foreign nationals, then this is also  
 4 the “exceptional case” where John Does 2-10 are “subject to the jurisdiction of the  
 5 courts of the United States but not of any particular State,” because of their  
 6 utilization of various different U.S. Internet hosting companies and the U.S.  
 7 domestic Internet infrastructure.

8 10. Venue is proper in this judicial district pursuant to 28 U.S.C. 1391  
 9 § (b)(2), because a substantial part of the events giving rise to the claim, including  
 10 the harm suffered by Mode Media, and the John Does’ use of an Internet hosting  
 11 company located in Fremont, California to host the Infringing Website, occurred in  
 12 this judicial district. In the alternative, pursuant to 28 U.S.C. 1391 § (b)(3), there is  
 13 no district in which an action may otherwise be brought where venue would be more  
 14 proper than in this district, and since the John Doe defendants are subject to this  
 15 Court’s personal jurisdiction in this action, venue is proper in this judicial district.

### 16 **COMMON FACTUAL ALLEGATIONS**

#### 17 **(a) Mode Media’s Business and Valuable Intellectual Property**

18 11. Mode Media is a leading global digital lifestyle media company. Mode  
 19 Media’s digital media platform provides personalized content and video stories that  
 20 are curated online by professional editors. According to the most recent comScore  
 21 rankings released on December 23, 2015, Mode Media ranks at number 10 for U.S.  
 22 digital media properties, which puts it just behind Apple and ahead of Twitter.  
 23 (Gagan Decl. ¶ 8.) Globally, Mode Media reaches approximately 250 million  
 24 monthly unique visitors.

25 12. Mode owns a federal service mark registration for GLAM (U.S.  
 26 Registration No. 3,641,353) in connection with a variety of different goods and  
 27 services, including, in International Class 38, “[p]roviding on-line communications  
 28 links that transfer a website user to other local and global web pages,” and in

1 International Class 41, “[p]roviding a website featuring entertainment information  
2 about books, movies and music.” A true copy of this registration is attached as  
3 **Exhibit 1** to this complaint.

4 13. Mode has been using the GLAM mark continuously in interstate  
5 commerce since at least 2005, in a variety of ways. The GLAM mark is now  
6 incontestable and famous. Until April of 2014, Mode Media was previously known  
7 as Glam Media and its flagship website was located at [www.glam.com](http://www.glam.com). Since the  
8 company name change in 2014, Mode Media has continued to utilize the GLAM  
9 mark as a key brand, similar to a TV channel, only for curated web content. Thus,  
10 for example, new “GLAM”-branded stories appear every day at [www.mode.com](http://www.mode.com)  
11 homepage, along with stories from other branded channels such as BRASH, TEND,  
12 FOODIE, and BLISS. By navigating the Internet to [www.mode.com/glam](http://www.mode.com/glam), a visitor  
13 can see all of the GLAM-branded content in one place.

14 14. Mode Media also owns a federal service mark registration for BRASH  
15 (U.S. Reg. No. 4,342,819) in connection with a variety of different goods and  
16 services, including, in International Class 38, “[p]roviding on-line communications  
17 links that transfer a website user to other local and global web pages,” and in  
18 International Class 39, “[p]roviding a website featuring information about travel.”  
19 A true copy of this registration is attached as **Exhibit 2** to this complaint.

20 15. Mode Media also owns a federal service mark registration for TEND  
21 (U.S. Reg. No. 4,390,693) in connection with a variety of different goods and  
22 services, including, in International Class 38, “[p]roviding on-line electronic bulletin  
23 boards for transmission of messages among computer users concerning parenting,  
24 cooking, healthy eating, home decor, home organization, pregnancy, child-rearing,  
25 baby and child products, baby and child gear and accessories, toys, games, books,  
26 children's clothing, style, fashion, travel, technology, family, family activities,  
27 beauty, fitness, health, wellness,” and, in International Class 41, “[p]roviding a  
28 website featuring non-downloadable electronic publications, namely, articles in the

1 fields of parenting, cooking, healthy eating, home decor, home organization,  
2 pregnancy, child-rearing, child education, baby and child products, baby and child  
3 gear and accessories, toys, games, books, children's clothing, style, fashion, travel,  
4 technology, family, family activities, beauty, fitness, health, wellness.” A true copy  
5 of this registration is attached as **Exhibit 3** to this complaint.

6 16. Mode Media also has completed an application for a federal copyright  
7 registration for the pictorial and graphic “top banner” that typically appears on the  
8 Mode.com website. These applications have been fully completed and transmitted  
9 to the Copyright Office, the fees have been paid, and deposit copies have been  
10 provided to the Library of Congress.

11 17. Mode Media has recently completed applications for federal copyright  
12 registration for a variety of other original, copyrightable elements that are typically  
13 part of the Mode.com website. These applications for registration include different  
14 pictorial and graphic top banner designs for the GLAM, BRASH, TEND, FOODIE,  
15 and BLISS channels. These applications have been fully completed and transmitted  
16 to the Copyright Office, the fees have been paid, and deposit copies have been  
17 provided to the Library of Congress.

18 **(b) The Infringing Mirror Site at [www.GlamScoop.org](http://www.GlamScoop.org)**

19 18. On September 13, 2015, John Doe 1, as the registrant, registered the  
20 Infringing Domain, i.e., “GlamScoop.Org.” The registrar for this domain name is  
21 PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”), which is located in  
22 Mumbai, India.

23 19. Although registrants are required to provide and maintain true and  
24 accurate contact information as a condition of domain name registration, John Doe 1  
25 opted to use a privacy protection proxy service to hide his or her identity. The  
26 privacy protection proxy service’s role is to forward notifications to the true  
27 registrant. The privacy protection proxy service John Doe 1 used, Privacy  
28 Protection Service INC d/b/a PrivacyProtect.org, gives John Doe 1’s official contact



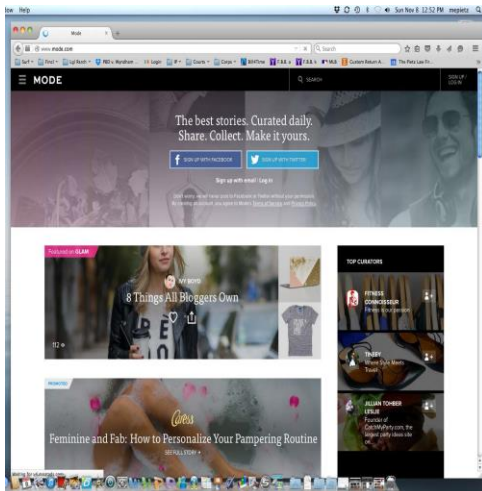
information as follows:

Registrant Name: Domain Admin  
 Registrant Organization: Privacy Protection Service INC  
 d/b/a PrivacyProtect.org  
 Registrant Street: C/O ID#10760, PO Box 16  
 Registrant Street: Note - Visit PrivacyProtect.org  
 Registrant Street: to contact the domain owner/operator  
 Registrant City: Nobby Beach  
 Registrant State/Province: Queensland  
 Registrant Postal Code: QLD 4218  
 Registrant Country: AU  
 Registrant Phone: +45.36946676  
 Registrant Phone Ext:  
 Registrant Fax:  
 Registrant Fax Ext:  
 Registrant Email: contact@privacyprotect.org

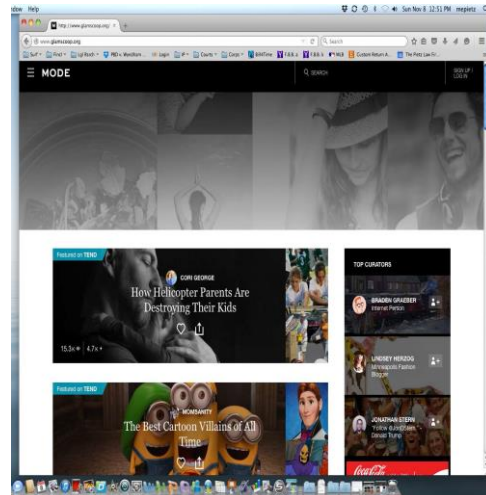
The information for the admin and technical contacts is the same; all contacts for the Infringing Domain are directed to go through the privacy proxy service listed above.

20. On or around October 20, 2015, Mode Media first became aware of an unauthorized, infringing mirror site that had been setup by the John Does at the Infringing Domain, which essentially copies the entirety of the Mode.com website.

Actual Mode.com Website:



Infringing Website:



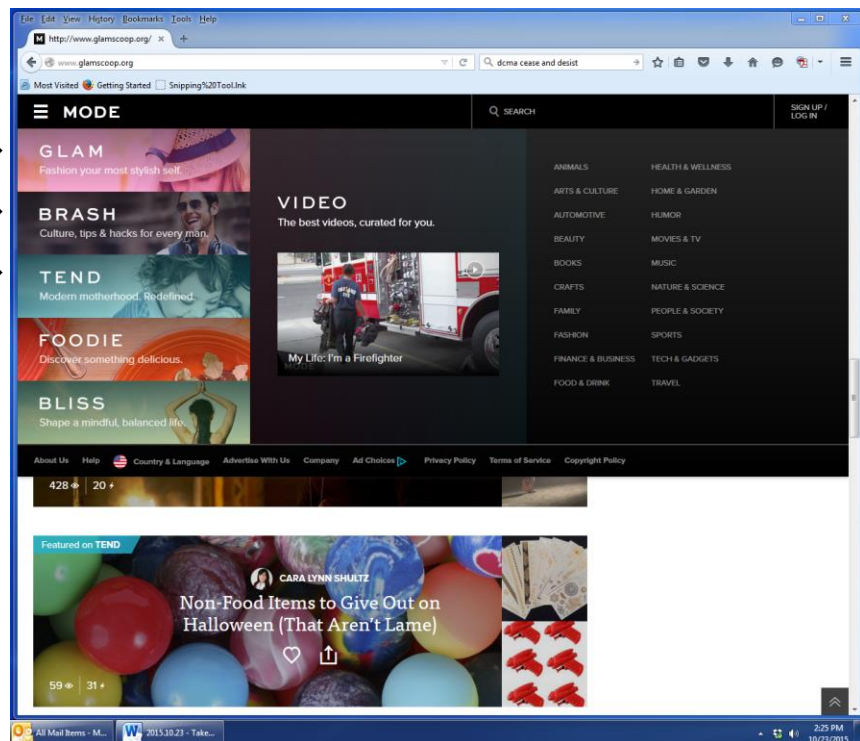
21. The Infringing Website mirrors the functionality of the Mode.com



website in almost every way, and reproduces all of the content available on the Mode.com website, identically, with only two obvious exceptions. First, the John Does behind the Infringing Website either did not know how or opted against trying to integrate their counterfeit site with Facebook and Twitter. So that part of the home page top banner is missing from the Infringing Website. Second, Mode.com is constantly updating with new stories continuously throughout the day; the Infringing Website also updates regularly, but less often, such that the stories that appear on the Infringing Website are typically slightly delayed as compared to when the same stories first appeared on the Mode.com website.

22. Navigation is the same on the Infringing Website as it is on the real Mode.com website. Thus, if a user clicks the menu tab in the top left, next to where it says “MODE”, the Infringing Website reveals a dropdown menu that corresponds to the same dropdown menu on Mode.com’s site, and which displays Mode Media’s various trademarks, including the federally registered GLAM, BRASH, and TEND:

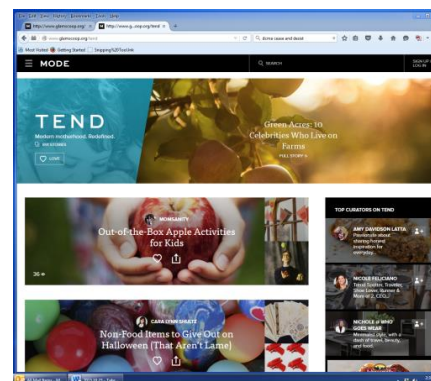
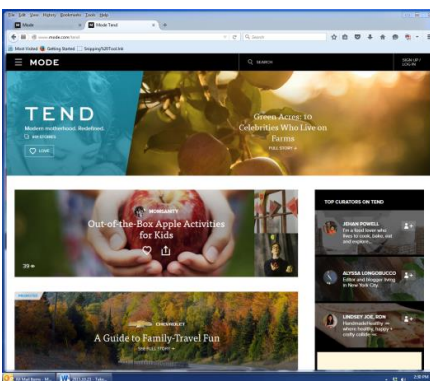
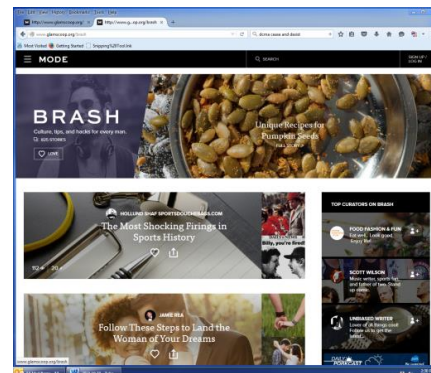
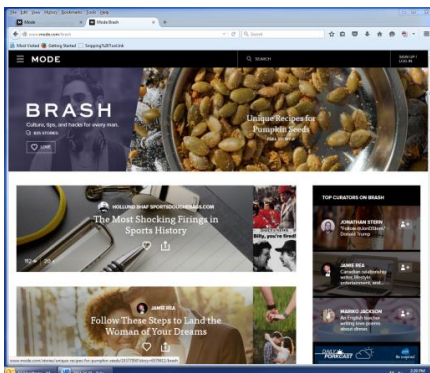
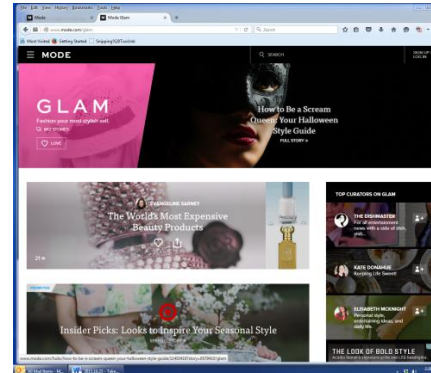
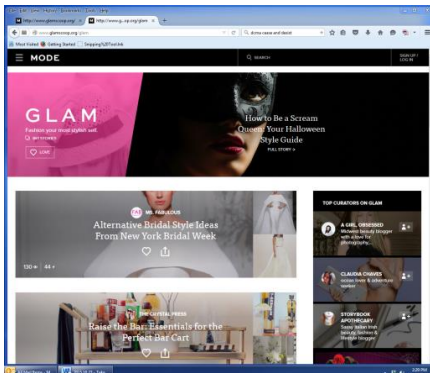
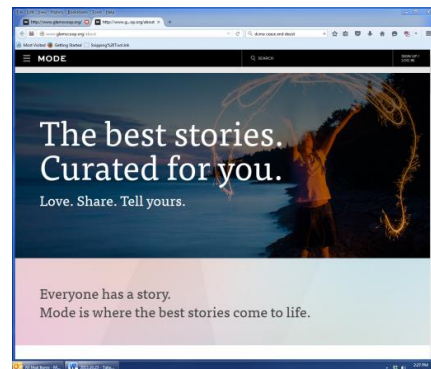
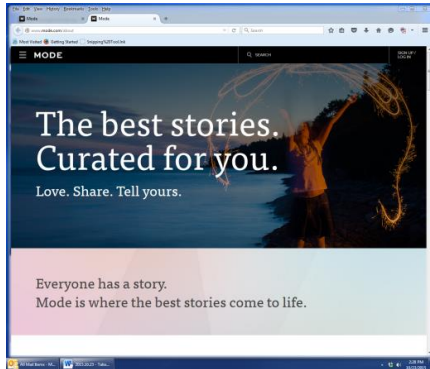
Infringing Website →  
Using Mode Media’s →  
Registered Trademarks →



24. As can be seen from the screenshot comparisons below, John Does' copying of the Mode.com website is systematic and comprehensive:

Mode.com website content:

Infringing Website content:



1           26. The Infringing Website even copies the Mode.com terms and  
2 conditions and other legal notice pages, such that a person on the Infringing Website  
3 who clicks on those links would think they were really on the real Mode.com  
4 website and that the counterfeit site is run by Mode Media.

5           27. Almost immediately after becoming aware of the Infringing Website on  
6 October 20, 2015, Mode Media, through counsel, began taking legal action,  
7 including by sending cease and desist demands to the hosts of the Infringing Website  
8 which invoked the “takedown” procedure of the Digital Millennium Copyright Act.  
9 A game of “whack-a-mole” then ensued. Shortly after one host would forward the  
10 demand letter to its customer and disable the John Does’ Internet access, the John  
11 Does would then simply start using a new hosting company and put the Infringing  
12 Website back up a few days later, resulting in a new cease and desist demand.

13           28. The several different Internet hosting companies used by the John Does  
14 so far to host the Infringing Website have all tended to specialize in providing virtual  
15 private server or “VPS” services, which is the kind of hosting someone signs up for  
16 when they are trying to hide their tracks. These hosting companies, which the John  
17 Does have used to commit the infringing and tortious acts detailed herein, have  
18 mainly been located in various different parts of the United States, including one  
19 hosting company, Hurricane Electric, based in Fremont, California (which is within  
20 this Judicial District). Hurricane Electric confirmed that it owns at least one of the  
21 IP addresses used by the John Does to serve up the Infringing Website.

22           29. Mode Media, through counsel, also sent a cease and desist letter to the  
23 domain name Registrar asking it to disable access to the Infringing Domain. The  
24 Registrar responded: “The domain name ‘GLAMSCOOP.ORG’ is merely registered  
25 with us. As the registrar of the domain name, we have no control over the content  
26 hosted on it. As a domain name Registrar, *we would be in a position to assist you,*  
27 *ONLY if you can provide us a Temporary Restraining Order* from any Court of  
28 Law.” (Emphasis added.)

**FIRST CAUSE OF ACTION**

**Trademark Infringement and Counterfeiting [15 U.S.C. §§ 1114, *et seq.*]**

30. All of the foregoing paragraphs are incorporated here by reference.

31. Mode Media owns valid, protectable trademarks including the above-referenced service marks for GLAM, BRASH and TEND, and as evidenced by Mode Media's current federal trademark registrations.

32. Mode Media has been using the GLAM, BRASH and TEND registered trademarks continuously in commerce since at least September 2005 for GLAM, October 2008 for BRASH, and April 2012 for TEND. Mode Media has invested substantial time, effort and financial resources promoting these marks in connection with the marketing and sale of its services in interstate commerce. The consuming public recognizes these trademarks and associates them with Mode Media.

33. The GLAM, BRASH and TEND trademarks are registered on the Principal Register of the United States Patent and Trademark Office (the "Trademark Office"), as described above.

34. John Doe 1's use of the GLAM trademark in registering and maintaining the "GlamScoop.org" domain name without consent of Mode Media is likely to cause confusion among ordinary consumers as to the source, sponsorship or affiliation, or approval of the services and content offered via the Infringing Domain. The use of the Infringing Domain is also intended to cause initial interest confusion. Accordingly, John Doe 1 is engaged in trademark infringement.

35. The John Does' copying and use of the GLAM, BRASH, and TEND trademarks in creating and maintaining the Infringing Website is likely to cause confusion among ordinary consumers as to the source, sponsorship or affiliation, or approval of the services and content offered at the Infringing Website. Accordingly, all of the John Does are engaged in trademark infringement.

36. Furthermore, the John Does are engaged in a type of trademark infringement that also constitutes counterfeiting. The John Does are using



1 “spurious” marks on the Infringing Website that are identical to the registered  
2 trademarks owned by Mode Media, including GLAM, BRASH, and TEND. The  
3 John Does have applied the exact GLAM, BRASH and TEND label to the Infringing  
4 Website, and are therefore using these marks in commerce in connection with the  
5 advertisement and actual provision of content to customers, and in selling  
6 advertising and monetizing traffic to the Infringing Site, in a way that is likely to  
7 cause confusion, cause mistake and to deceive. The John Does have never been  
8 authorized to use Mode Media’s trademarks, and they are using Mode Media’s  
9 trademarks in connection with providing the exact same kind of goods and services  
10 as are included within Mode Media’s trademark registrations for these marks.  
11 Accordingly the John Does acts constitute counterfeiting under 15 U.S.C. § 1114(1).

12 37. The John Does know or have reason to know of Mode Media’s  
13 trademark rights. The John Does continue to use counterfeit trademarks on the  
14 Infringing Website intentionally and maliciously, even after being put on notice of  
15 Mode’s trademark rights, via multiple cease and desist demands, and after  
16 continually switching host companies after their Internet access is terminated by  
17 DMCA-compliant hosting companies. John Does are intending to cause consumer  
18 confusion and mistake and to deceive consumers.

19 38. As a proximate result of the John Does’ infringement, Mode Media has  
20 suffered and will continue to suffer monetary loss and irreparable injury to its  
21 business, reputation, and goodwill.

22 39. Since the John Does are engaged in not just trademark infringement but  
23 counterfeiting, Mode Media is entitled, at its election to treble damages or statutory  
24 damages of up to \$200,000 per each counterfeited trademark. 15 U.S.C. § 1117(b)-  
25 (c).

26 40. Since the John Does acted maliciously, fraudulently, deliberately, or  
27 willfully in doing the acts alleged, this is an exceptional case where Mode Media is  
28 entitled to its reasonable attorneys’ fees. 15 U.S.C. § 1117(a).

**SECOND CAUSE OF ACTION**

**Cyberpiracy [15 U.S.C. § 1125(d)]**

41. All of the foregoing paragraphs are incorporated here by reference.

42. In registering the Infringing Domain and repeatedly using it to serve up the Infringing Website, despite various cease and desist and takedown demands, the John Does have continue to have a bad faith intent to try and profit from their use of Mode Media's GLAM trademark.

43. At the time the Infringing Domain was registered by John Doe 1, on September 13, 2015, the GLAM trademark was distinctive and incontestable, as evidenced by the Trademark Office's acknowledgment of Mode Media's Section 15 affidavit for the GLAM trademark on July 9, 2015.

44. The Infringing Domain is confusingly similar to Mode Media's distinctive GLAM trademark, in that it incorporates the entirety of the GLAM mark.

45. As a proximate result of the John Does' cyberpiracy, Mode Media has suffered and will continue to suffer monetary loss and irreparable injury to its business, reputation, and goodwill.

46. As a result of John Does' cyberpiracy, Mode Media is entitled, at its election, to the forfeiture, cancellation, or transfer to Mode Media of the Infringing Domain. 15 U.S.C. § 1125(d)(1)(C).

47. As a result of the John Does' cyberpiracy, Mode Media is entitled, at its election, to recover, instead of actual damages and profits, an award of statutory damages of between \$1,000 and \$100,000 for the Infringing Domain. 15 U.S.C. § 1117(d).

48. Since the John Does acted maliciously, fraudulently, deliberately, or willfully in doing the acts alleged, this is an exceptional case where Mode Media is entitled to its reasonable attorneys' fees. 15 U.S.C. § 1117(a).

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**THIRD CAUSE OF ACTION**

**Copyright Infringement [17 U.S.C. §§ 501, *et seq.*]**

49. All of the foregoing paragraphs are incorporated here by reference.

50. Plaintiff is the owner of the valid copyrights described above. Each completed application for copyright registration described above covers one or more works of original authorship. And Mode Media, either as an employer for hire, or through valid assignment, is the owner of all right title and interest, or an exclusive licensee of the copyright rights, in and for the works at issue.

51. John Does copied original elements of the copyrighted works; indeed, the copied the entirety of the copyrighted works, in virtually identical fashion.

52. As a proximate result of the John Does' cyberpiracy, Mode Media has suffered and will continue to suffer monetary loss and irreparable injury.

**FOURTH CAUSE OF ACTION**

**False Designation of Origin and False Advertising [15 U.S.C. § 1125(a)]**

53. All of the foregoing paragraphs are incorporated here by reference.

54. The John Does have infringed on Mode Media's GLAM trademark and the MODE trade name, by using similar corporate, business, and professional names both in the Infringing Domain name itself (which incorporates the entirety of the GLAM trademark) and in the Infringing Website, which purports to be provided by Mode Media, and which uses multiple trademarks owned by Mode Media, even though it is a counterfeit website that Mode Media has not authorized.

55. The John Does' use of Mode Media's trademarks and trade names is likely to cause confusion about the source or sponsorship of the services and content that appear under the Infringing Domain and at the Infringing Website.

56. The Infringing Domain and the Infringing Website also constitute false advertising in that they make false statements of material fact, such as that the website is provided by and affiliated with Mode Media.

57. These false statements tend to deceive customers and divert traffic

1 away from the real Mode Media website, thus injuring Mode Media in the  
2 marketplace.

3 58. As a proximate result of the John Does' false designations of origin and  
4 false advertising, Mode Media has suffered and will continue to suffer monetary loss  
5 and irreparable injury to its business, reputation, and goodwill.

### 6 **FIFTH CAUSE OF ACTION**

#### 7 **False Advertising [Cal. Bus. & Prof. Code §§ 17500, *et seq.*]**

8 59. All of the foregoing paragraphs are incorporated here by reference.

9 60. The Mode.com website both advertises and actually provides a service  
10 that makes personalized web content and video stories available to the public online.

11 61. By copying the Mode.com website, the Infringing Website similarly  
12 advertises that the services being provided on the Infringing Website are coming  
13 from Mode Media. However, this is untrue, misleading, and likely to deceive  
14 members of the public because Mode Media is not affiliated with the Infringing  
15 Website.

16 62. The John Does knew, or should have known, that the Infringing  
17 Website is not sponsored or affiliated with Mode Media. Indeed, the whole point of  
18 the website appears to be to deceive the public, so the John Does can attempt to  
19 profit from Mode Media's goodwill and monetize web traffic that should be going to  
20 the real Mode.com.

21 63. As a proximate result of the John Does' false advertising, Mode Media  
22 has suffered and will continue to suffer monetary loss and irreparable injury to its  
23 business, reputation, and goodwill.

### 24 **SIXTH CAUSE OF ACTION**

#### 25 **Intentional Interference with Prospective Economic Advantage**

26 64. All of the foregoing paragraphs are incorporated here by reference.

27 65. Mode Media has various existing business relationships pursuant to  
28 which it earns substantial revenues from derived from traffic to its website

properties. There is a high probability of future economic benefit from these continuous and ongoing relationships.

66. Through diverting traffic away from the real Mode.com website, the John Does have injuriously interfered with Mode Media's prospective economic advantage.

67. The John Does have engaged in wrongful conduct, as described throughout this complaint, that falls outside the boundaries of fair competition.

68. The John Does have intentionally and maliciously interfered with Mode Media's prospective economic advantage, as evidenced by their repeatedly putting the Infringing Website back up, after takedown demands are sent to their constantly-changing hosting companies.

69. As a proximate result of the John Does' false designations of origin and false advertising, Mode Media has suffered and will continue to suffer monetary loss and irreparable injury to its business, reputation, and goodwill.

70. In doing the acts alleged, John Does are guilty of oppression, fraud, and malice, such that Mode Media is entitled to recover exemplary and punitive damages.

71. As a proximate result of the John Does' unfair competition, Mode Media has suffered and will continue to suffer monetary loss and irreparable injury to its business, reputation and goodwill.

## **SEVENTH CAUSE OF ACTION**

### **Unfair Competition [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]**

72. All of the foregoing paragraphs are incorporated here by reference.

73. In doing the acts alleged, the John Does have engaged in a business practice that is unlawful, for all of the reasons described in the other causes of action.

74. In doing the acts alleged, the John Does have engaged in a business practice that is unfair because it offends established public policy and is immoral,

unethical, oppressive, unscrupulous, and substantially injurious to consumers.

75. In doing the acts alleged, the John Does have engaged in a business practice that is fraudulent, in that it is likely to deceive the public.

76. As a proximate result of the John Does' unlawful, unfair, and fraudulent business practices, Mode Media has suffered and will continue to suffer monetary loss and irreparable injury to its business, reputation, and goodwill.

**PRAYER FOR RELIEF**

Accordingly, Mode Media hereby prays for judgment in its favor as against all defendants and the following relief:

- A. A temporary restraining order and preliminary injunction putting the Infringing Domain name on lock and hold, and transferring control over the Infringing Domain to the Court during the pendency of this case.
- B. A permanent injunction cancelling the Infringing Domain or transferring control over the Infringing Domain name to Mode Media pursuant to 15 U.S.C. § 1125(d)(1)(C).
- C. General, special, and consequential damages on all causes of action, as according to proof.
- D. Treble and/or statutory damages pursuant to 15 U.S.C. § 1117(b)-(d).
- E. Attorneys' fees pursuant to 15 U.S.C. § 1117(a).
- F. Costs on all causes of action.
- G. For such other relief as may be just and proper, as conforms to proof.

Respectfully Submitted,

GERARD FOX LAW, P.C.

DATED: January 14, 2016

BY: /s/ Morgan E. Pietz

Morgan E. Pietz  
*Attorneys for Plaintiff MODE  
MEDIA CORP. f/k/a GLAM  
MEDIA*

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial pursuant to Fed. R. Civ. P. 38.

Respectfully Submitted,

GERARD FOX LAW, P.C.

DATED: January 14, 2016

BY: /s/ Morgan E. Pietz

Morgan E. Pietz

*Attorneys for Plaintiff MODE  
MEDIA CORP. f/k/a GLAM  
MEDIA*